



6 SEP 2000

**UNITED STATES DEPARTMENT OF COMMERCE**  
**Patent and Trademark Office**

Patent Cooperation Treaty Legal Office

Address: Assistant Commissioner for Patents  
Box PCT  
Washington, D.C. 20231

Venable, Baetjer, Howard & Civiletti, LLP  
Post Office Box 34385  
Washington, D.C. 20043-9998

In re Application of POLYMEROPOULOUS et al  
U.S. Application No.: 09/446,628  
Int. Application No.: PCT/US98/13071  
Int. Filing Date: 25 June 1998  
Priority Date: 25 June 1997  
Attorney Docket No.: 31978-141234  
For: CLONING OF A GENE MUTATION  
FOR PARKINSON'S DISEASE

**DECISION ON PETITION**

**UNDER 37 C.F.R. § 1.137(b)**

This is in response to applicants' "Petition for Revival of Abandoned Application" filed 28 August 2000.

**BACKGROUND**

On 25 June 1998, applicants filed international application PCT/US98/13071, which claimed priority of an earlier United States application filed 25 June 1997. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 30 December 1998. A Demand for international preliminary examination, in which the United States was elected, was filed on 25 January 1999, prior to the expiration of nineteen months from the priority date. Accordingly, the thirty-month period for paying the basic national fee in the United States expired at midnight on 25 December 1999.

On 23 December 1999, applicants filed a transmittal letter for entry into the national stage in the United States under 35 U.S.C. 371. The submission included the requisite basic national fee.

On 23 February 2000, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905), indicating that an oath or declaration in compliance with 37 CFR 1.497 is due along with a surcharge for providing an oath or declaration later than thirty months from the priority date. The Notification

of Missing Requirements set a one month response period, which applicants extended by five months by paying the appropriate fee.

International application PCT/US98/13071 became abandoned as to the United States of America on 23 August 2000 for failure to respond to the Notification of Missing Requirements.

On 28 August 2000, applicants filed the present petition. The petition states that it is accompanied by, *inter alia*, the required reply to the Notification of Missing Requirements, the petition fee set forth in 37 CFR 1.17(m), and a statement that abandonment of the application was unintentional.

### DISCUSSION

Under 37 CFR 1.137(b), a petition requesting that an application be revived on the grounds of unintentional abandonment must be accompanied by: (1) the required reply unless previously filed, (2) the petition fee as set forth in 37 CFR 1.17(m), (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional, and (4) a terminal disclaimer if the application was filed before 08 June 1995.

With regard to item (1), the declaration filed 28 August 2000 with the present petition is improper because it is not signed by all of the inventors. It is not sufficient to submit only the signature page of the declaration. Applicants must file either 1) a single complete declaration signed by all of the inventors or 2) multiple complete declarations, with each inventor's signature appearing on one of the multiple complete declarations.

With regard to item (2), applicants have provided the required petition fee.

With regard to item (3), the petition states, "The delay caused by the abandonment of the application was unintentional." This statement is interpreted as a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional. If this is an incorrect interpretation in view of the rules, petitioners are required to provide a statement to that effect.

With regard to item (4), because the international application was not filed before 08 June 1995, no terminal disclaimer is required.

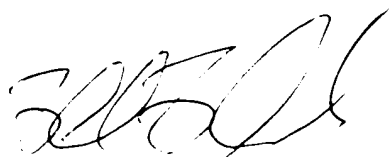
### CONCLUSION

Because applicants have failed to satisfy item (1) above, the petition under 37 C.F.R. §1.137(b) is DISMISSED without prejudice.

If reconsideration on the merits of this petition is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.137(b)." No additional petition fee is required. Extensions of time may be obtained under 37 CFR 1.136(a).

Please direct further correspondence with respect to this matter to the Assistant Commissioner for Patents, Box PCT, Washington, DC 20231, and address the contents of the letter to the attention of the PCT Legal Office.

Bryan Tung  
PCT Legal Examiner  
PCT Legal Office



Richard Cole  
PCT Legal Examiner  
PCT Legal Office

Telephone: 703-308-6614  
Facsimile: 703-308-6459